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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In re

Amendment of Section 73.202(b)	)	MM Docket No. 96-124
Table of Assignments	)	RM-8813
FM Broadcast Stations	)	RM-8864
(Winner and Wessington Springs,	)	
South Dakota)	)	

DOCKET FILE COPY ORIGINAL

To: Chief, Allocations Branch

COMMENTS ON COUNTERPROPOSAL

Midwest Radio Corporation ("Midwest"), petitioner in the above-referenced proceeding, by its attorney, respectfully comments on the counterproposal, RM-8864, filed by Dakota Communications, Inc., ("Dakota") on July 29, 1996. The Commission's Public Notice of this counterproposal, released August 16, 1996, invited interested parties to file comments on the proposal no later than 15 days after the date of Public Notice. Therefore, these comments are timely.

The Notice of Proposed Rule Making, DA 96-881, ("NPRM") proposes substituting Channel 252C1 for Channel 253C1 at Winner, reallocating Channel 252C1 from Winner to Wessington Springs, and modifying station KGGK(FM)'s construction permit accordingly. Dakota counterproposes that Channel 253C1 be retained as a third local transmission service at Winner<sup>1</sup> and that Channel 251C1 be allotted as a first local service at Wessington Springs. Dakota states that this arrangement of allotments is superior to that

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<sup>1</sup> KWYR and KWYR-FM are licensed to Winner, South Dakota.

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proposed in the NPRM because it would allow Winner, South Dakota, to retain two FM allotments and open a filing window for competing applications for a new FM station on Channel 251C1 at Wessington Springs.

It is Commission policy to ascertain the availability of additional channels which may resolve a potentially mutually exclusive rule making proceeding. Lawton, Oklahoma, 4 FCC Rcd 1807 (1989). As shown by the attached engineering statement of Owl Engineering, the Commission may allot Channel 299C1 to Wessington Springs fully consistent with the Commission's minimum distance separation requirements from the proposed reference coordinates of 44° 12' 00" and 98° 45' 20".<sup>2</sup> This equivalent channel substitution resolves the mutual exclusivity between Midwest's and Dakota's proposals by allowing the Commission to reallocate station KGGK to Wessington Springs on Channel 252C1, and allot a new channel to Wessington Springs to accommodate Dakota's request for a new Wessington Springs allotment.

As Midwest noted in its Comments filed July 29, 1996, Wessington Springs presently has no local transmission service. Adopting Midwest's proposal would result in the first local service to Wessington Springs, even should the Commission also allot Channel 299C1 there. In Santee Cooper Broadcasting Co. of Hilton Head, Inc. 99 FCC 2d 781 (Rev. Bd. 1984), the Commission

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<sup>2</sup> This reference point is northwest of that requested for Channel 252C1. It is likely that Channel 299C1 will serve white area which would not be covered by Channel 252C1 at Wessington Springs.

stated that for purposes of §307(b) a community is not held to possess an existing transmission service merely because the community has been assigned an FM channel.

The Commission's allotment criteria to further the goals of Section 307(b) of the Communications Act mandates the following allotment priorities: (1) first full time aural reception service; (2) second full-time aural reception service; (3) first local aural transmission service; and (4) other public interest matters [co-equal weight given to priorities (2) and (3)] Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982). Midwest's proposal satisfies the highest priority by providing the first full-time aural reception service for Wessington Springs and adjacent areas. Dakota's proposal to retain Channel 253C1 at Winner and allot Channel 251C1 to Wessington Springs does not negate this fact.

Midwest's proposal for a first local transmission service at Wessington Springs is preferred to Dakota's proposal for an open filing window. The KGGK construction permit has been granted; a modification to reflect Channel 252C1 at Wessington Springs will require only an application for minor modification of facilities, which is not subject to petitions to deny. On the other hand, Dakota's proposal will result in a filing window during which the Commission may receive multiple applications for the new channel. Applications for new facilities are subject to formal petitions to deny and require more processing time than is required by a minor change application. In the event multiple applications are

filed for the new channel, they would be subject to the Commission's current processing freeze on mutually exclusive applications for new FM facilities and would further delay institution of a new transmission service at Wessington Springs. FCC Freezes Comparative Proceedings, 9 FCC Rcd 1055 (1994).

Moreover, adopting Midwest's proposal and allotting a second channel at Wessington Springs will have further benefits. The Commission has recognized a preference for competitive broadcast voices under Section 307(b). For example, in Babcom, Inc. 24 FCC 2d 690 (Rev. Bd. 1970), the Commission found that the presumptive need of a community for a second local transmission service, providing a first competitive voice in a community which now has access to only one such voice, outweighs the need of a larger community which already has multiple local transmission services. Allotting channels 252C1 and 299C1 to Wessington Springs will further this policy.

The NPRM contemplates a first full time aural reception service to a substantial area and a first local transmission service to Wessington Springs, while Winner will retain a local transmission service from KWYR and KWYR-FM and aural reception service from KPLO. As it meets the two highest allotment priorities, it is clear that adopting Midwest's proposal will create an efficient and preferential arrangement of allotments. In sum, Midwest's proposal is to be preferred over that of Dakota's for the above-stated reasons. However, if the Commission desires to open a filing window for a new station at Wessington Springs it

may do on Channel 299C1.

Respectfully Submitted,

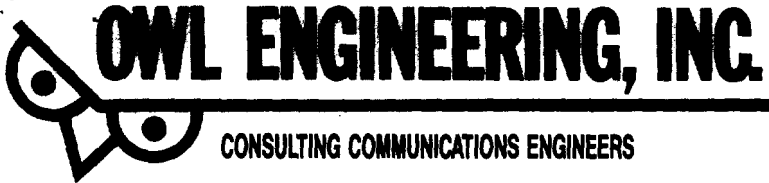
MIDWEST RADIO CORPORATION

August 30, 1996

Miller & Miller, P.C.  
P.O. Box 33003  
Washington, DC 20033

By

John S. Neely  
Its Attorney



CONSULTING COMMUNICATIONS ENGINEERS

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**ENGINEERING STATEMENT ON BEHALF OF  
MIDWEST RADIO CORPORATION  
IN SUPPORT OF REPLY COMMENTS  
WESSINGTON SPRINGS, SOUTH DAKOTA**

**August 16, 1996**

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# OWL ENGINEERING, INC.

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## ENGINEERING STATEMENT ON BEHALF OF MIDWEST RADIO CORPORATION IN SUPPORT OF REPLY COMMENTS WESSINGTON SPRINGS, SOUTH DAKOTA

Owl Engineering, Inc. has been retained by Midwest Radio Corporation (hereafter Midwest) to prepare this engineering statement in support of reply comments in reference to RM-8813, MM Docket No. 96-124. An alternative option is advanced with these reply comments.

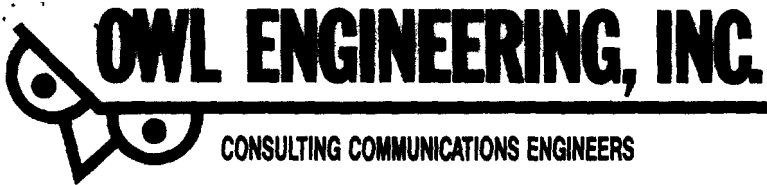
Below is a summary of the proposed amendments to the FM Table of allotments, FCC Rule Section 73.202(b) in this proceeding:

Location	Present	RM-8813	Counterproposal	Reply Comments
Winner, SD	229C1, 253C1	229C1	229C1, 253C1	229C1
Wessington Springs, SD		252C1	251C1	252C1, 299C1

The reference coordinates for Wessington Springs, SD (299C1) used in this study are:

44° 12' 00" North Latitude  
98° 45' 20" West Longitude

The reference coordinates listed above represent a site restriction 20 kilometers northwest of Wessington Springs. The site restriction is required to prevent a short spaced condition with KQRN located at Mitchell, SD.



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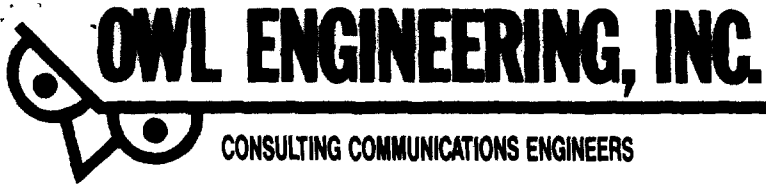
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MIDWEST RADIO CORPORATION  
IN SUPPORT OF REPLY COMMENTS  
WESSINGTON SPRINGS, SOUTH DAKOTA**

Included as Engineering Exhibit E-1 is an allocation study for channel 299C1 at Wessington Springs based on the reference coordinates listed above. As can be seen from this exhibit, the reference coordinates are in complete conformance with FCC Rule Section 73.207.

Midwest's proposal was examined to determine if a Class C1 facility located at the reference coordinates listed above would comply with FCC Rule Section 73.315 regarding minimum signal coverage requirements. The 70 dBu contour is depicted in Engineering Exhibit E-2. As can be seen from Engineering Exhibit E-2, the community of Wessington Springs is completely served by a signal of 70 dBu or greater. (The F(50,50) metric curves of Figure 1 of Section 73.333 of the Commissions Rules were used to calculate the distance to the 70 dBu contour along the eight standard 45-degree spaced radials and the radial through the city of Wessington Springs.) There will be a wide area to select a potential tower location. The available area is best described as remote making selection of a tower location relatively easy.





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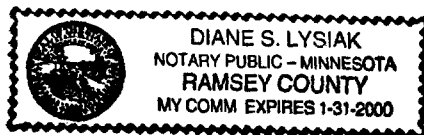
RAMSEY COUNTY                    )  
  )  
STATE OF MINNESOTA        )       ss:

Michael W. Radovich, being first duly sworn, says that he is an employee of Owl Engineering, Inc., consulting communications engineers with offices in Arden Hills, Minnesota; that his qualifications as an expert in communications engineering are a matter of record with the Federal Communications Commission; that the foregoing exhibit was prepared by him and under his direction; and that the statements contained therein are true of his own personal knowledge except those stated to information and belief and, as to those statements, verily believes them to be true and correct.



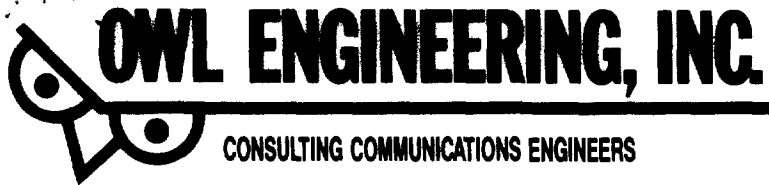
*Michael W. Radovich*  
Michael W. Radovich, P.E.

Subscribed and sworn to before me this date August 16, 1996



*Diane S. Lysiak*  
Diane S. Lysiak  
Notary Public

My commission expires January 31, 2000



CONSULTING COMMUNICATIONS ENGINEERS

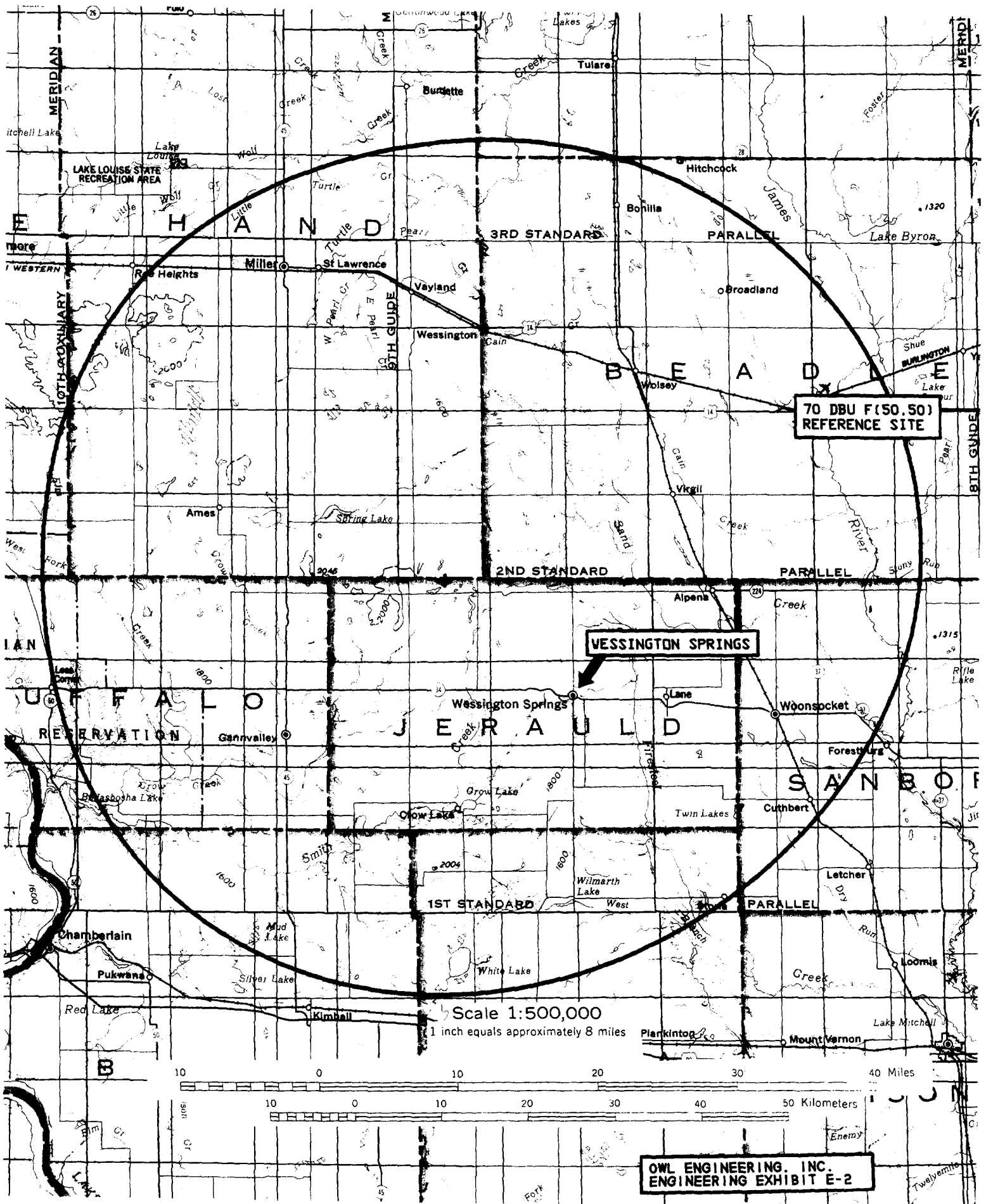
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## ENGINEERING EXHIBIT E-1

Job Title-> Wessington Springs, SD  
FM Channel 299-C1 (107.7 MHz)

LATITUDE: 44 12' 0" LONGITUDE: 98 45' 20"

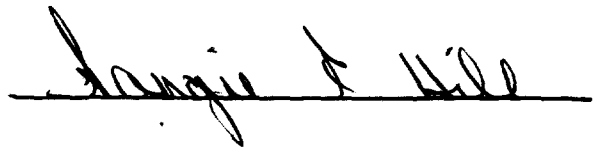
CHNL	Call Status	Owner	City	Class	Calculated Km.	Required Km.	Clear- ance	Bearing degrees
245	NO	CONFLICT						
246	NO	CONFLICT						
296	NO	CONFLICT						
297	KQRN LIC	FMSD Mitchell Korn Palace Broadcas		C1 43 42' 14"	82.01 97 59' 57"	82	0.01 BLH790731AF	132.07
298	NO	CONFLICT						
299	KICDFM LIC	FMIA Spencer Iowa Great Lakes B/C		C1 43 10' 0"	312.89 95 8' 45"	245	67.89 BLH7197	110.34
300		FASD Flandreau		C3	174.02	144	30.02	94.82
300	NEW	FMSD Flandreau		C3	162.65	144	18.65	100.88
300	NEW	FMSD Flandreau		C3	171.44	144	27.44	90.42
300	NEW	FMSD Flandreau		C3	160.86	144	16.86	97.58



**CERTIFICATE OF SERVICE**

I hereby certify that on this 30th day of August, 1996, a copy of the foregoing document was placed in the United States mail, first class postage prepaid, addressed to the following:

Clifford M. Harrington, Esq.  
Fisher, Wayland, Cooper, Leader & Zaragoza, L.L.P.  
2001 Pennsylvania Avenue, N.W.  
Suite 400  
Washington, DC 20006-1851

A handwritten signature in cursive script, appearing to read "Laurie L. Hill", is written over a horizontal line.